

# MAINE STATE LEGISLATURE

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## NINETY - NINTH LEGISLATURE

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**Legislative Document**

**No. 1088**

H. P. 770

House of Representatives, March 4, 1959

Referred to Committee on State Government. Sent up for concurrence and 750 copies ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Cox of Dexter.

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### STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-NINE

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**AN ACT Establishing Minimum Wages of Employees in Public Works by  
State of Maine.**

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Be it enacted by the People of the State of Maine, as follows :

**R. S., c. 30, §§ 51-A - 51-F, additional.** Chapter 30 of the Revised Statutes is amended by adding 6 new sections, to be numbered 51-A to 51-F, to read as follows :

**'Wages in State Public Works.**

**Sec. 51-A. Regulation.** The rate per hour of the wages paid to mechanics, teamsters, chauffeurs or laborers employed in the construction, alteration or repair of public buildings or public works by the State of Maine, or by persons contracting or sub-contracting for such work shall not be less than the rate or rates of wages that will be determined by the Commissioner of Labor and Industry to be prevailing for the corresponding classes of mechanics, teamsters, chauffeurs or laborers, employed on projects of a similar nature being carried on on federal installations within the State of Maine; and every such contract shall contain a stipulation that the contractor or his sub-contractor shall pay all mechanics, teamsters, chauffeurs or laborers employed directly upon the site of the work, unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those determined by the commissioner, regardless of any contractual relationship which may be alleged to exist between the contractor or sub-contractor and such mechanics, teamsters, chauffeurs or laborers; and that the scale of wages to be paid shall be posted by the contractor in a prominent and easily accessible place at the site of the work; and

the further stipulation that there may be withheld from the contractor so much of accrued payments as may be considered necessary by the contracting officer to pay to mechanics, teamsters, chauffeurs or laborers employed by the contractor or any sub-contractor on the work the difference between the rate of wages required by the contract to be paid mechanics, teamsters, chauffeurs or laborers on the work and the rate of wages received by such mechanics, teamsters, chauffeurs or laborers.

Sec. 51-B. Determination of wages. The commissioner shall prepare, for the use of such public officials or public bodies whose duty it shall be to cause public works to be constructed, a list of the several jobs usually performed on various types of public works upon which mechanics, teamsters, chauffeurs and laborers are employed. The commissioner shall classify said jobs, and he may revise such classification from time to time, as he may deem advisable. At least 10 days before asking for bids the authorized department or agent prescribing specifications shall request the commissioner to ascertain the prevailing wage rate, as provided in section 51-A. The commissioner shall immediately determine the prevailing wage rate and shall so notify any organization or employees or employers who shall have previously requested that any such prevailing wage rate so determined shall be furnished them. In advertising or calling for bids for said works, the awarding official or public body shall incorporate said schedule in the advertisement or call for bids by an appropriate reference thereto, and shall furnish a copy of said schedule, without cost, to any person requesting same. Said schedule shall be made a part of the contract for said works and shall continue to be the minimum rate or rates of wages for said employees during the life of the contract.

#### Sec. 51-C. Enforcement and Penalties.

I. The Purchasing Agent of the State of Maine is authorized to pay directly to mechanics, teamsters, chauffeurs or laborers from any accrued payment withheld under the terms of the contract found to be due mechanics, teamsters, chauffeurs or laborers pursuant to section 51-A and the Purchasing Agent of the State of Maine is further authorized and is directed to distribute a list to all departments of the government giving the names of persons or firms whom he has found to have disregarded their obligations to employees and sub-contractors. No contract shall be awarded to the persons or firms appearing on this list or to any firm, corporation, partnership or association in which such persons or firms have an interest until 3 years have elapsed from the date of publication of the list containing the names of such persons or firms.

II. If the accrued payments, withheld under the terms of the contract as aforesaid, are insufficient to reimburse all the mechanics, teamsters, chauffeurs or laborers with respect to whom there has been a failure to pay the wages required pursuant to section 51-A, such mechanics, teamsters, chauffeurs or laborers shall have the right of action or of intervention against the contractor and his sureties conferred by law upon persons furnishing labor or materials, and in such proceedings it shall be no defense that such mechanics, teamsters, chauffeurs or laborers accepted or agreed to accept less than the required rate of wages or voluntarily made refunds.

III. Any contractor or sub-contractor who shall withhold, take or receive from any mechanic, teamster, chauffeur or laborer, as a rebate, refund or gratuity, or in any other guise, any part or portion of the wages paid to any such employee for work done or services rendered on said public works, shall be punished for each offense by a fine of not less than \$100 nor more than \$300 or by imprisonment for not more than 6 months, or by both.

Sec. 51-D. Appeal. Within 15 days after such wage rates shall be determined in accordance with the provisions of sections 51-A and 51-B, such rates may be appealed by an association of employees or employers, any 2 citizens of the State or any public awarding agency, such appeal to be heard before a board of 3, constituted as follows: The Governor and Council shall appoint 2 members for a term of 2 years each. Employers and organized employees in the construction industry shall each be represented on said board; the 3rd member of said board shall be appointed by the first 2 members, and in case the 2 cannot agree on the 3rd member within 30 days after their own appointment, said 3rd member shall be appointed by the Governor and Council. If while an appeal is pending any member of the appeal board, by reason of illness, absence from the State or otherwise, is unable to perform his duties, the Governor shall appoint a person to act in his stead with respect to that appeal then pending. Upon the filing of an appeal, the appeal board shall fix a time and place for a public hearing thereon to be held not later than 7 days after filing of the appeal, Saturdays, Sundays and holidays excepted; and the Commissioner of Labor and Industry shall give written notice thereof to any public awarding agencies concerned, and to all interested associations and organizations of employers and employees in the construction industry deemed by him to be affected by the appeal. Within 48 hours after adjournment of the hearing, the board shall submit its decision in writing to the commissioner who shall forward copies thereof to all parties deemed by him to be interested in the appeal and affected thereby.

Sec. 51-E. Records. Every contractor, sub-contractor or public body engaged in said public works to which sections 51-B to 51-C applies shall keep true and accurate registers of all mechanics, teamsters, chauffeurs and laborers employed thereon, showing the name, address and occupation classification of each employee on said works, and the hours worked by and the wages paid to each such employee and shall furnish to the commissioner upon his request, a true statement of the same. Such records shall be kept in such manner as the commissioner shall prescribe and shall be open to inspection by any authorized representative of the Department of Labor and Industry, at any reasonable time and as often as may be necessary.

#### Sec. 51-F. Penalties.

I. Every contract within the scope of section 51-A shall contain the further provision that in the event it is found by the contracting officer that any mechanic, teamster, chauffeur or laborer employed by the contractor or sub-contractor directly on the site of the work covered by the contract has been or is being paid a rate of wages less than the rate of wages required by the contract, the State of Maine may, by written notice to the contractor, terminate his right to proceed with the work or such part of his work as to which there has been a failure to pay said required wages and to prosecute the work to

completion by contract or otherwise, and the contractor and his sureties shall be liable to the State of Maine for any excess costs occasioned the State thereby.

II. Any contractor or sub-contractor who violates any provision of sections 51-A to 51-D, where no other penalty has been provided, shall be punished by a fine of not less than \$100 nor more than \$300 for each offense or by imprisonment for not more than 3 months, or by both.'